

October 8,  
2019

FREETOWN PLANNING BOARD PMUD RULES &  
REGULATIONS

FREETOWN PLANNING BOARD  
RULES AND REGULATIONS  
GOVERNING DEVELOPMENT WITHIN THE  
PLANNED MIXED-USE DEVELOPMENT  
OVERLAY DISTRICT

TOWN OF FREETOWN, MASSACHUSETTS

Date of Adoption: August 11, 2015  
With Revisions Dated: October 8, 2019

TRUE COPY ATTEST  
*Regina A. Brown*  
Town Clerk/Freetown

1.0 General Provisions

1.1 Purpose and Authority

The following Rules and Regulations are hereby adopted by the Freetown Planning Board as provided in Chapter 40A of the Massachusetts General Laws, for the purpose of establishing uniform procedures for the review of development concept plans and the granting of special permits for development within the Planned Mixed-Use Development (PMUD) zoning overlay district pursuant to Article 11.29 of the Freetown Zoning Bylaws. The purpose of the district, as stated in the Zoning Bylaws, is as follows:

- To provide an opportunity to comprehensively plan a large tract of land in a pedestrian friendly, campus-like setting, around a public green.
- To ensure high quality site planning, architecture and landscape design to create a distinct visual character and identity for the development that provides an environment with safety, convenience and amenity.
- To ensure any potential traffic impacts of the planned mixed-use development are properly mitigated and in keeping with the character of the Town of Freetown.
- To generate positive tax revenue, while providing the opportunity for new business growth and additional local jobs.
- To accommodate the needs of a sustainable community by providing a framework for regional growth while creating employment opportunities that maximize the economic benefits of transit investment, minimize sprawl development and preserve the natural assets of the south coast for future generations.

1.2 Adoption and Amendment

These Rules and Regulations may be adopted and from time to time amended by a majority vote of the Planning Board, provided such adoption or amendment is submitted in writing at a meeting of the Planning Board and action thereon taken after a public hearing.

### 1.3 Effective Date

These Rules and Regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements, such as date of adoption, date filed with Town Clerk, and dates of amendments.

Date of adoption:

Date filed with the Town Clerk:

Amendments – dates of adoption:

Amendments – dates filed with Town Clerk:

### 2.0 Applicant

An application or petition for a Development Concept Plan, Residential Development Rights Certification, Transfer of Development Rights Special Permit, Development Design Plan Special Permit, or any combination thereof, may be brought by a property owner, agent or prospective purchaser who submits certification of property interest and authority to file such application for the area of land comprising the application locus by the owner.

### 3.0 Pre-Application Conference

The Planning Board may hold pre-application conferences at any regular or special meeting of the Planning Board. The applicant should provide a concept plan for discussion purposes and to assist in the identification of the nature of information necessary to meet the requirements of the zoning by-law and regulations for the application.

### 4.0 Planned Mixed-Use Development Application Process

A planned mixed-use development is a two-step process, which allows the town and an applicant greater flexibility in the development of the land within the overlay district. These Rules and Regulations are intended to establish specific guidelines regarding submittal requirements, review procedures, and required performance standards.

Step 1: The applicant files a Development Concept Plan Application Form PMUD as described in Section 5.0 for a phase or combination of phases for land within the PMUD overlay district. The plan locus for each phase must include at least five (5) contiguous acres within the PMUD overlay district as shown on the Town of Freetown zoning map, as amended. Additional land can be added to, removed from, or substituted within a phase from time to time, provided that the total acreage of the project is not greater than forty-four (44) acres and that a revised Development Concept Plan is filed for review and approval. The Plan shall contain the overall road network, roadway drainage, locations of the village green, bike and pedestrian ways, delineation of lot or lots pertaining to Development Concept Plan and proposed uses by phase.

Step 2: The applicant files a Development Design Plan and a FORM PMUD as described in Section 6.0, with the Planning Board serving as the Special Permit Granting Authority (SPGA), for a phase showing all elements. An element may be a single use or group of uses within a phase of the overlay district.

## 5.0 Application for Step 1: Development Concept Plan

### 5.1 Application Form

Applicants for Development Concept Plan approval must submit a properly executed FORM PMUD, which shall be furnished by the Clerk of the Planning Board upon request. All information indicated on this form and listed below shall be supplied by the petitioner at the time of application in the manner prescribed (fully and correctly). In order for an application to be considered a proper submittal, the provisions of the filing requirements found in Submission requirements (Section 5.2), the Contents Requirements (Section 5.3) and Fee requirements (Section 8.0) shall be fulfilled.

Failure to meet these requirements will be considered a failure to submit a complete application and the Planning Board shall open and close the public hearing without testimony and shall deny the proposal. Such denial shall not subject the project to M.G.L. Ch. 40A Sec. 16 relative to repetitive petitions.

### 5.2 Submission

Each application for a Development Concept Plan approval shall be filed by the applicant with the town clerk and a copy of said application, including the date and time of filing certified by the town clerk, shall be filed forthwith by the applicant with the Planning Board.

For the purpose of furnishing sufficient information upon which to base a decision of the Planning Board, the applicant shall submit twelve (12) copies of the project plans and pertinent information and calculations to the Planning Board. All such plans shall be prepared by a Registered Land Surveyor and/or a Professional Engineer as required. The plan's title shall contain the date and name of the applicants and contain such other information as the Planning Board may request. Any subsequent revisions shall be listed with the dates on each sheet of the plan in block format.

### 5.3 Contents of an Application

The following information shall be furnished by the applicant:

- a. The applicant or applicants must demonstrate proof of ownership of all property subject to the application or a notarized statement by the owner(s) of the property authorizing the applicant to file an application for the property in addition to proof of ownership of all property.
- b. A locus plan at 1" = 400' scale showing the location, names, and including the tracts of land from assessor's plans or field survey if available, of properties within the plan locus. The plan shall be oriented to true or magnetic north and all elevations shall be referenced to NAVD88.
- c. A conceptual site layout drawn at a scale of 1" = 40', unless another scale is previously requested and found suitable by the Board. The approximate locations of the buildings, setbacks and all other required dimensions, elevations and measurements may be shown on the site layout with both existing and proposed contour lines representing the site topography. Widths of the existing streets bounding, approaching or within reasonable proximity of the site, and ownership of surrounding parcels shall be shown.
- d. No street or way through private property shall be recommended for acceptance by the Town unless the same be previously constructed and completed in accordance with Freetown Rules and Regulations of the Planning Board governing the Subdivision of Land (Subdivision Rules and Regulations) Section IV. Design and Construction Standards. Plans shall meet the requirements of the Freetown Subdivision Rules and Regulations Section IV.A.1-7 and including the following required elements:
  - i. The location of existing wetlands, streams and rivers, water bodies, wells, one-hundred year floodplain elevation, slope areas, vistas, geological features including topography (two foot contours), stone walls, fire trails, unique vegetation, historic features, and other natural features that may be important to the site.

- ii. Existing and proposed parking, all drainage, and utility systems prepared by a Massachusetts registered professional engineer.
- iii. Street layouts and property line plan by a Massachusetts registered land surveyor.
- iv. Drainage calculations for proposed roadways meeting the requirements of the Section IV. Section D. Drainage and Runoff Control, including measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding.
- v. A landscape plan for all proposed roadway rights-of-way to include the total square feet of all landscaped areas, including a depiction of materials to be used, and the quantity, size, and species of plantings.
- vi. A narrative describing the manner in which the land designated on the plans as public green(s) will be either placed under a permanent conservation restriction or deeded to the Town of Freetown. The narrative shall also describe any uses and facilities proposed within the public green(s). If several uses are proposed, the plans shall specify what uses will occur in what areas. The narrative shall also address compliance of the public green(s) with the design requirements in Article 11.29(J) (1) of the Zoning Bylaws.
- vii. A draft copy of any proposed declaration of covenants and restrictions and/or permanent conservation restrictions governing the public green(s) within the application. Or, if the public green(s) will be deeded to the Town, a statement to that effect.
- viii. A draft easement for the maintenance of the public green(s), as specified in Article 11.29(J) (1) (b) of the Zoning Bylaws.
- ix. The application shall also furnish a summary of the vital statistics of the project. Such statistics shall include: total gross and net acreage of locus; total length of new roadways; area and maintenance plan for public green(s); maintenance plan for drainage systems; the acreage of land within the proposal, including the percentage of the total PMUD overlay district, dedicated to the allowable land uses listed in the Required Performance Standards in Article 11.29 (I) of the Zoning Bylaws.
- x. A traffic study for the land subject to the Development Concept Plan application. Said traffic study shall include information as specified in Articles 11.29(I) (11) and 11.25 of the Zoning By-Laws. This overall traffic study will assist the Town and applicants (within the PMUD) to determine the overall impact of the development of each phase of the PMUD and determine the best mitigation package for the Town and the development.

- xi. The proposed traffic mitigation measures shall apply to each element, as approved, under the special permit application (Step 2). Any changes to the anticipated traffic impacts, size or proposed uses of individual elements shall require updating and revising the traffic study. The Planning Board, under the special permit application, shall determine if said changes are acceptable.

#### 5.4 Development Concept Plan Design Objectives

- a. Uses shall be grouped together to maximize pedestrian access by connecting sidewalks and pathways. Buildings shall be oriented around the public green and not South Main Street.
- b. Except as the Planning Board may otherwise determine, access to South Main Street from a PMUD shall be through a secondary street as defined in the Planning Board Subdivision Rules and Regulations.
- c. A public green shall be required for each phase of development within the PMUD and a public green can serve more than one development phase. The public green(s) shall be a minimum of one-half ( $\frac{1}{2}$ ) acre in size per phase and be designed as a pedestrian friendly park. If one public green is to serve multiple phases, then it should be sized as a minimum of one-half ( $\frac{1}{2}$ ) acres times the number of phases being served. The public green(s) shall contain some combination of benches, tables, playground equipment, sidewalks, lighting and landscaping. Each green shall be used solely for active and passive recreation purposes and shall be open to the public. Advertising and solicitation shall be prohibited in all areas designated as a green. The total acreage of the green in each phase may be used toward the land area calculations to determine allowable density for one of the uses within that phase.
- d. The Board shall review all submittals for compliance with the Required Performance Standards under Article 11.29(I) of the Zoning Bylaws, and with the Criteria for Review and Approval under Article 11.29(M) of the Zoning Bylaws.

#### 5.5 Review Procedures

- a. The Planning Board shall distribute copies of the plan and application documents to other town officials for review and comment per section 9.1 and 9.2 of these Regulations.
- b. A public hearing notice shall be given by publication in a newspaper of general circulation once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the

hearing and by posting such notice in a conspicuous place in town hall for a period of not less than fourteen (14) days before the day of such hearing and shall send written notice by mail to all abutters within three hundred feet of the property line. The legal notice shall be at the expense of the applicant.

- c. The Planning Board's approval may consider comments received from various municipal reviewers.
- d. The Planning Board shall review the Development Concept Plan for compliance with the Freetown Zoning Bylaw section 11.29 Planned Mixed-Use Overlay District and these Rules and Regulations and shall take action on the Development Concept Plan application within 60 days of submittal.

#### 5.6 Density and Dimensional Requirements

For any building(s) within the planned mixed-use development overlay district the following Density and Dimensional Requirements shall apply from interior roadways:

**Table 1: Minimum Setbacks**

<b><i>Building Setbacks</i></b>	<b><i>Minimum feet</i></b>
Village Green	5*
Front	6
Side	10
Rear	20

- Front setbacks for buildings facing the village green(s) may vary.

**Table 2: Minimum Dimensional Requirements**

Minimum Lot Area	5 acres
Minimum Frontage	175 feet
Maximum Height	45 feet
Maximum Number of Stories	3.5
Minimum Distance Between Buildings	20

#### 6.0 Application for Step 2: Development Design Plan Special Permit

Upon approval of a Development Concept Plan application under the Step 1 regulations, an applicant may submit a Special Permit application for an individual element or group of elements.

Step 1 and Step 2 plans may be filed and reviewed concurrently, but the Planning Board shall continue the public hearing on a Step 2 application until a decision has been issued and the appeal period has passed for the Step 1 approval.

#### 6.1 Application Form

Applicants for Special Permits must submit a properly executed FORM PMUD, which shall be furnished by the Clerk of the Planning Board upon request. All information indicated on this form and listed below shall be supplied by the petitioner at the time of application in the manner prescribed (fully and correctly). In order for an application to be considered a proper submittal, the provisions of the Filing requirements (Section 6.2, Submission requirements, the Section 6.3, Contents of a Site Plan and Section 8.0, Fee requirements) shall be fulfilled.

Failure to meet these requirements will be considered a failure to submit a complete application and the Planning Board shall open and close the public hearing without testimony and shall deny the proposal. Such denial shall not subject the project to M.G.L. Ch. 40A Sec. 16 relative to repetitive petitions.

#### 6.2 Submission

Each application for a special permit shall be filed by the applicant with the Town Clerk and a copy of said application, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the applicant with the Planning Board serving as the SPGA. Any person desiring approval of a plan under this section shall submit twelve (12) copies of said plan, with application for approval thereof, directly to the Planning Board with an additional copy filed with the Town Clerk. The Board shall, within ten (10) days after receipt thereof, distribute such plans as provided in Section 9.1 herein. Applicants are encouraged to meet informally with the Planning Board staff and the Building Inspector prior to making a formal submission of plans to discuss site plan requirements and design objectives.

#### 6.3 Contents of a Development Design Plan

In exercising its jurisdiction under this section, the Planning Board shall conform to all requirements applicable when holding a public hearing and deciding requests for special permits as set forth in General Laws Chapter 40A, Section 9



and Article 11.5 of the Freetown Zoning Bylaws. The Planning Board during its review shall utilize the following objectives, in addition to any standards prescribed elsewhere in these Rules and Regulations. These objectives are intended to provide specific guidelines for the Board and the applicant as outlined in Article 11.29 (J) of the Zoning Bylaws.

- a. All existing and proposed buildings, structures, parking areas, loading areas, driveway openings, driveways, walkways, surfacing materials to be used, access and egress points, and portions of the roads being utilized for same, service areas, recreation areas and other open spaces, including dimensions and all elevations.
- b. Existing and proposed easements within the lot.
- c. Existing and proposed on-site wells, water supply systems, storm drainage systems, utilities, sites for enclosed refuse containers and location and capacity of septic systems.
- d. Wetlands, streams, bodies of water, drainage swales.
- e. The location and description of all existing and proposed topographic features on the lot including two (2) foot contours, walks, fences, walls, planting areas, and greenbelts.
- f. Percent of building lot coverage.
- g. Height of all buildings, above average finished grade of abutting streets, including architectural details and the amount(s) in sq. ft. of proposed building(s).
- h. Impervious surface area and open space (natural and landscaped) of the lot.
- i. A traffic study, if the land subject to the application will meet the thresholds specified in Article 11.25 of the Freetown Zoning Bylaws. Include projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.
- j. Proposed traffic mitigation measures applying to both on-site and related off-site conditions, as identified in Article 11.29 (J) (11) Traffic Impact Study of the Freetown Zoning Bylaws. The scheduling of mitigation measures shall insure that said remedies are in place and functioning properly at the time of project occupancy.
- k. The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.
- l. The location of existing or proposed buildings on the lot shall be shown with the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings. The information shall be sufficient so that the Planning Board may make

recommendations regarding, among other things, the architectural value and significance of the site, building or structure, the general design, arrangement and texture, material and color of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area.

- m. Design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors.
- n. Number of parking spaces, and estimated water consumption and sewage discharge.
- o. The Board reserves the right to require additional information as may be necessary to protect the public interests outlined in Article 11.29 and relevant sections of the Zoning Bylaws.

#### 6.4 Special Permit Review Standards

In exercising its jurisdiction under this section, the Planning Board shall conform to all requirements applicable to the Planning Board when deciding requests for special permits as set forth in General Laws Chapter 40A, Section 9 and Article 11.5 of the Freetown Zoning Bylaws. The Planning Board during its Development Design Plan review shall utilize the following objectives, in addition to any standards prescribed elsewhere in these Rules and Regulations. These objectives are intended to provide specific guidelines for the Planning Board and the applicant as outlined in Article 11.29 (J) of the Zoning Bylaws.

- a. Architectural details – Architectural details of new buildings and additions, and textures of walls and roof materials, should be harmonious with the building's overall architectural style and should preserve and enhance the historic character of Freetown.
- b. Building Articulation - Building façades in excess of forty (40) feet shall incorporate recesses and projections, of a minimum of two (2) feet in depth, to break up the building's mass. A minimum of sixty (60) percent of the building's public green(s) and/or street side façade shall contain windows and other appropriate architectural elements. The windows should be divided by muntins and framed with a casing trim; awnings should be designed as an integral part of the building façade; metal awnings are discouraged. Facades shall emphasize architectural elements (including windows, balconies, porches, entries, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller identifiable pieces.
- c. Building Form and Features – The mass, proportion and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows should be harmonious among themselves.

- d. Building Location - Proposed buildings and structures shall be integrated as much as possible within the existing building locations, landscape and terrain. Building location shall be oriented parallel or perpendicular to the public green(s) and/or street, and shall be oriented around the public green and not South Main Street. The applicant shall provide adequate spatial definitions through the use of walls, fences and/or other elements, which will maintain the street line. Uses shall be grouped together to maximize pedestrian access by connecting sidewalks and pathways. The large retail establishment shall either provide an entrance to the public green or side façade to the public green shall be lined with uses to enhance the pedestrian activities and the use of the public green(s).
- e. Building Design - The design of proposed buildings, structures and additions shall complement, whenever feasible, the general setback, roof line, roof pitch, arrangement of openings, color, exterior materials, proportion and scale of existing buildings in the vicinity.
- f. Spatial Definition - Define various areas, both public and private, with walks, plantings, walls, fences and other elements that are in keeping with the overall architectural design.
- g. Parking Design (see Article 11.29 (K) of the Zoning Bylaws) – The majority of the parking shall be located to the rear or sides of buildings. All parking and loading areas shall be completely screened from South Main Street by a minimum fifty (50) foot wide raised and landscaped buffer. Parking lots and loading areas shall be appropriately screened from roadways within the overlay district by a minimum twenty (20) foot wide raised and landscaped buffer. Appropriately designed view corridors of buildings from the roadways within the overlay district shall be allowed.
- h. Parking Spaces – Applicant shall demonstrate adequacy of space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment per Article 11.29(K). Reduction in parking space requirements may be permitted where by design and use it is shown to the Planning Board's satisfaction that the parking is compatibly shared by multiple uses, adequate and mutually accessible. However, in no case shall a parking requirement reduction exceed fifteen (15) percent of those parking spaces required under normal application of requirements for the non-residential uses proposed.
- i. Special Features - Exposed machinery, utility structures and areas for parking, loading, storage, service and disposal shall be screened from adjoining properties and streets as deemed necessary by the Planning Board.

- j. Lighting – All lighting and other sources of illumination, whether interior or exterior, and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from adjacent properties. Lighting should match the architectural style of the building and comply with the Zoning Bylaws Article 11.29(J)(6).
- k. Pedestrian Furnishings – The Planning Board shall evaluate convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property, or improvements. Benches, bicycle racks, bollards, pedestrian scale lighting, street trees, refuse containers, flowers boxes, and canopies shall be provided where deemed appropriate by the Planning Board per Article 11.29(J)(4) of the Zoning Bylaws and shall be consistent with the character of the development.
- l. Disposal - The Planning Board shall review adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site, and the methods of drainage for surface water including consideration of groundwater recharge.
- m. Protection - The Planning Board shall ensure protection of adjoining premises against detrimental or offensive uses on the site.
- n. Submittals Compliance - The Planning Board shall review all submittals for compliance with the Required Performance Standards under Article 11.29(I) of the Zoning Bylaws, and with the Criteria for Review and Approval under Article 11.29(M) of the Zoning Bylaws.

#### 7.0 Transfer of Development Rights (TDR)

Article 11.29(G)(1)(g) of the Zoning By-laws permits a developer to purchase the residential development rights of other parcels in the PMUD Overlay District and add these units to its own project within the PMUD Overlay District. **If a parcel owner chooses to sell or purchase one or more residential development rights under this bylaw, then the parcel owner is electing to develop under the PMUD zoning rather than the underlying zoning district and terms and conditions of the PMUD Overlay District shall control.** When residential development rights are sold and severed from the sending parcel, the non-residential development rights still exist on the property. Future development density of the sending parcel is to be calculated as if the severed residential development rights were still a part of the development.

One sending area residential dwelling unit is equal to one transferable residential development right. These development rights can be transferred to a Receiving parcel for which one development right is equivalent to one additional dwelling unit that is added to the base number of allowable dwelling units on said parcel.

## 7.1 Definitions

**DEVELOPMENT RIGHT:** The right to develop land by a land owner who maintains fee simple ownership over the land or by a party other than the owner who has obtained the rights to develop through a private party exchange. Such rights to develop are determined by application of relevant statutory and regulatory authority, including but not limited to the Zoning Act, rules and regulations adopted by the Town of Freetown, and are typically expressed in terms of development density permitted by the Freetown Zoning Bylaw. As applied to TDR, one development right is equal to one dwelling unit. These rights may be purchased or transferred.

**DWELLING UNIT:** A single independent housekeeping unit with permanent provisions for living, sleeping, eating, cooking and sanitation, occupied or intended for occupancy by one separate family.

**SENDING PARCEL:** A sending parcel is the land from which development rights may be severed and transferred. Minimum or maximum lot area requirements do not apply to sending parcels.

**RECEIVING PARCEL:** A receiving parcel is the land to which development rights may be transferred. Developments incorporating transferred development rights shall be subject to a Development Design Plan special permit review process under the PMUD bylaw.

**TRANSFER OF DEVELOPMENT RIGHTS (TDR):** The voluntary exchange of development rights between one or more property owners. Upon receipt of a Transfer of Development Rights Special Permit, designated development rights may be transferred from one or more sending areas to one or more receiving areas. Once a development right is transferred from a parcel, it is considered to be permanently severed from the sending area property pursuant to a Deed Restriction or transfer in compliance with the provisions of section 7.2 below.

## 7.2 Determination and Certification of Sending Area Residential Development Rights.

There is no special permit requirement associated with this process. A property owner may seek a determination and certification of residential development rights without committing to the PMUD requirements for development. The transfer of these development rights shall signify the adherence to the requirements of the PMUD for future development.

- a. A sending parcel shall have no minimum lot size.
- b. This determination process may be incorporated into a Design Plan Special Permit or an application for a Transfer of Development Rights special permit.
- c. A property owner wishing solely to determine the number of residential development rights shall submit to the Planning Board a FORM PMUD with twelve (12) copies of a Plan of Land defining the entire property boundary and showing the total acreage of the parcel with a table showing the maximum number of residential development rights. All such plans shall be prepared and stamped by a Registered Land Surveyor. The plan shall be oriented to true or magnetic north and include the date and name of the applicants.
- d. The maximum number of residential development rights of the sending parcel is calculated by multiplying the parcel acreage by the maximum five (5) dwelling units allowed per acre. Example: A ten (10) acre parcel is multiplied by five (5) dwelling units for a maximum of fifty (50) residential developments rights allowed and available as sending units.
- e. The calculation shall be detailed in a table, such as the following, that shows the calculation of the number of residential development rights available.

Parcel I.D. (Assessor's)	Parcel Acreage	D.U.*/ acre	Total D.U.* Available
		5	
		5	

\* Dwelling Unit

- f. The Planning Board shall review the plan to determine the accuracy of the calculation.
  - g. Upon determination that the calculation is accurate, the Planning Board shall issue a Sending Area Certificate of Development Rights.
- 7.3 Transferring Residential Development Rights from a Sending Parcel (Special Permit Process)
- a. A property owner wishing to sever the residential development rights from his/her property shall apply for a Transfer of Development Rights special permit from the Planning Board. If this transfer is part of a Design Plan special permit application, the Planning Board shall merge the multiple special permit reviews into one special permit review process. The transfer of development rights requires a special permit process per G.L., c. 40A, § 9.

- b. An applicant shall submit a Special Permit Application for Planned Mixed-Use Development (FORM PMUD) to the Planning Board reflecting the inclusion of a Transfer of Development Rights special permit application within a combined process with twelve (12) copies of a site plan showing acreage of the parcel and the number of maximum residential development rights. All such plans shall be prepared and stamped by a Registered Land Surveyor. The plan shall be oriented to true or magnetic north and include date and name of the applicants.
- c. The Planning Board will approve the items in this order if an application includes multiple actions.
  - i. The Planning Board will certify the number of residential development rights available on the sending parcel.
  - ii. The SPGA will act on the TDR special permit to sever said residential development rights
  - iii. Development Concept Plan
  - iv. Design Plan Special Permit.
- d. A table showing the calculation of the number of residential development rights and the number of residential development rights to be severed from the parcel at the time of the application shall be included on the plan.

Sending Parcel I.D. (Map, Lot)	Parcel Acreage	D.U.* / acre	Total D.U.* Available	Total D.U.* to be Severed
		5		
		5		

\*Dwelling Unit

- e. An owner may petition for all the residential development rights to be transferable or may retain a portion of the rights as buildable on the sending site.
- f. If there has been no development on a sending property that has retained development rights, a property owner can change these into transferable development rights at a future date.
- g. A permanent deed restriction shall be put on the parcels which limit the use of the parcels accordingly, in perpetuity, at the time of the transfer of development right ownership.
- h. A person is able to purchase residential development rights that have been vested in a Certificate of Development Rights without attaching the rights to a particular receiving parcel at the time of the purchase or a

person may purchase these development rights to be included directly within a project. These involve the voluntary exchange of development rights between one or more property owners who have entered into a financial agreement. Either type of exchange is then finalized through a Transfer of Development Rights Special Permit issued by the Planning Board.

- i. An updated Certificate of Development Rights that reflects the change in ownership of the development rights and the number of residential development rights that have been purchased shall be issued by the Planning Board after the appeal period has passed without the filing of an appeal and the applicant demonstrates that the required deed restrictions are placed on the property.
- j. One certificate shall be issued to the owner of the Sending Parcel, reflecting the number of residential development rights that remain on the parcel and another shall be issued to the new owner of the residential development rights reflecting the change in ownership of the residential development rights and the number of development rights that have been purchased and the parcels to which they have been assigned, if being assigned directly to a parcel or project.

#### 7.4 Vesting of Residential Development Rights to a Receiving Area

- a. In order to vest purchased residential development rights into a project, an applicant shall include the Certificate of Development Rights indicating the number of residential development rights available for use with the application for a Design Plan special permit.
- b. Should the developer wish to apply a partial number of residential development rights to the project, the Planning Board shall review calculations to determine the number of residential development rights remaining for future use and issue a revised Certificate of Development Rights reflecting the remaining available residential development rights.
- c. The number of purchased residential development rights shall be added to the base number of residential units in a project for the total number of residential units in the project.
- d. The project approval shall include and specify the number of residential development rights transferred from a sending parcel to a receiving parcel.
- e. A Certificate of Development Rights is to be issued after the appeal period has passed without the filing of an appeal and the applicant demonstrates that the required deed restrictions are placed on the property.



7.5 A property owner or developer may elect to submit 1) an application to determination of the number of residential development rights, 2) an application for a Transfer of Development Rights Special Permit, and 3) an application for a Design Plan Special Permit to vest residential development rights in a project individually or two or more of these processes may be merged to streamline the permitting process.

## 8.0 Fees

### 8.1 Administrative Expenses:

Fees for the review and staff time required to process the application by the Planning Board staff shall be as follows:

Development Concept Plan: \$1000.00

Design Plan Special Permit: \$1400.00

Certification of Development Rights: \$

Transfer of Development Rights Special Permit: \$

### 8.2 Review Fees/Special Accounts

Applicants for Step 1 Development Concept Plan review shall deposit engineering/consulting review fees in the amount of \$2500.00 into a special account subject to guidelines set forward in Section II.E of the Subdivision Rules and Regulations. The consulting review fee may also be expended as specified in the Subdivision Rules and Regulations for review of the application.

Applicants for Step 2 Development Design Plan Special Permits shall deposit review fees in the amount of \$2500.00 into a special account subject to guidelines set forward in Section II.E of the Subdivision Rules and Regulations. The consulting review fee may be expended as specified in the Subdivision Rules and Regulations for review of the special permit application.

### 8.3 Other Costs and Expenses

The applicant is responsible for the advertising costs associated with publication of the Public Hearing notice. The applicant is responsible for mailing public hearing notices to abutters by certified mail, return receipt requested. Return receipts are to be submitted to the Planning Board prior to the public hearing.

### 8.4 Special Permit Modification

The administrative fee for a modification to an existing Development Design Plan Special Permit is four hundred dollars (\$400). The applicant shall submit a check made out to the Town of Freetown at the time of the request to modify the special permit.

#### 8.5 Fee Waiver

Fees can be waived for applications from the Town of Freetown, Religious and Non-profit Organizations at the discretion of the Planning Board on a case-by-case basis.

### 9.0 Planning Board Review

#### 9.1 Referral to other Departments

Copies of the application, together with such information as the Board deems appropriate, shall be submitted by the Planning Board for review and recommendations to the Board of Health, the Building Inspector, the Highway Surveyor, Historical Commission, the Chiefs of the Police and Fire Departments, the Conservation Commission, the Water Commission and to such other municipal Boards and Officials as the Board determines within fourteen (14) days of the filing of the application.

#### 9.2 Submittal of Comments

These departments shall have thirty- (30) days to review and submit written comments to the Board. Failure of the various Boards and Commissions to make comment or recommendations within the thirty- (30) day time frame shall be deemed by the Planning Board as lack of opposition thereto. Notwithstanding this deadline, the Planning Board reserves the right to request comments from Boards that have failed to do so based on issues raised at the public hearing and to consider those comments in making its final decision.

#### 9.3 Decision Report

The Planning Board shall, within ninety (90) days of the close of the public hearing, issue a decision pertaining to each complete application. Each decision shall include an approval, an approval with conditions or a denial with specific citations stating where the application did not comply with the Required Performance Standards and/or the Criteria for Review and Approval. If the special permit does not incorporate the suggestions or requirements of any reports from town departments or is issued contrary to their recommendations, the Planning Board shall in its written decision state the reasons for not following the recommendations or requirements of said reports.

#### 9.4 Modification

The Planning Board shall have the power to modify or amend its approval of a Step 1 Development Concept Plan or Step 2 Development Design Plan Special Permit on application of the owner, lessee or mortgagee of the premises, or upon its own motion if such power is reserved by the Planning Board in its original approval. All of the provisions of these Rules and Regulations and Article 11.29 of the Freetown Zoning Bylaws shall, where apt, be applicable to such modification or amendment.

#### 10.0 Disposition of Application

##### 10.1 Withdrawal of Application

An applicant may withdraw an application without prejudice by notice in writing to the Clerk of the Board at any time prior to the first publication of the notice of the public hearing. After such notice, withdrawal of an application shall be permitted only by majority vote of the Planning Board.

##### 10.2 Reconsideration

No vote on an application may be reconsidered after the meeting at which the decision was rendered has been adjourned.

##### 10.3 Appeals

Any person aggrieved by a decision of the Planning Board as Special Permit Granting Authority may appeal such decision as provided in MGL 40A, Section 17 within twenty days (20) after such decision has been filed in the office of the Town Clerk.

##### 10.4 Reapplication

No application which has been unfavorably and finally acted upon by the Planning Board shall be reconsidered for a Special Permit within two (2) years after the date of the said final unfavorable action, unless the Planning Board finds by vote of four members specific and material changes in the conditions upon which the previous unfavorable action was based and such changes are described in the record of the Planning Board's proceedings, and after notice is given to parties in interest of the time and place of the proceedings to reconsider in the same manner as provided for in these Rules and Regulations.

##### 10.5 Effectiveness of Special Permit

No special permit shall take effect until certification by the Town Clerk is recorded in the Registry of Deeds and indexed under the name of the record owner of the land that twenty (20) days have elapsed after the filing of the decision and no appeal has been filed.

#### 10.6 Lapse of Special Permit

Every special permit authorized by the Planning Board shall contain the express condition that it will lapse if substantial use under the permit is not commenced within two (2) years from the date of final action by the Planning Board, except for good cause or the final determination of an appeal.

#### 11.0 Waiver of Full Compliance

Full compliance with these regulations may be waived by the Planning Board, provided such waivers are deemed to serve the public interest and are not conflicting with G.L. c. 40A, MGL or Article 29 of the Zoning Bylaws.

#### 12.0 Performance Guarantee

As a condition to a Development Concept Plan, the applicant shall post a performance guarantee as described in the Subdivision Rules and Regulations Section III.H to cover the period of construction or provide other safeguards in the form and amount or penal sum acceptable to the Board prior to the commencement of construction, unless the Board shall specify otherwise. The purpose of the guarantee for Step 1 Development Concept Plans is to assure completion of roadways, landscaping, drainage, erosion control or safety problems which may affect abutters or the public.

As a condition to a Development Design Plan Special Permit, the applicant shall post a performance guarantee as described in the Subdivision Rules and Regulations Section III.H to cover the period of construction or provide other safeguards in the form and amount or penal sum acceptable to the Board prior to the issuance of a building permit, unless the Board shall specify otherwise. The purpose of the guarantee for Step 2 Development Design Plan Special Permit is to assure completion of parking lots, landscaping, public green(s) or safety problems which may affect abutters or the public.

If the applicant is not the owner and must purchase to assume such obligations, he shall comply within twenty (20) days following the date of purchase. Upon completion of construction work, and satisfactory inspection by the Planning Board or its agent, the bond shall be returned to the applicant. In the event of

any dispute, the Planning Board shall have the right to require "as-built" plans certified by the appropriate registered architect, professional engineer, or surveyor as a basis for its findings.

#### 13.0 Severability

The provisions of these Rules and Regulations are severable. If any provision is held invalid, the other provisions shall not be affected thereby. If the application of these Rules and Regulations or any of its provision to any person or circumstances is held invalid, the application of these Rules and Regulations and their provisions to other persons and circumstances shall not be affected thereby.

**FORM PMUD**

**APPLICATION FOR  
PLANNED MIXED-USE DEVELOPMENT**

DATE \_\_\_\_\_

Is this an application for?

- ☐ TDR Residential Rights Certification (not a part of a TDR SP)? \_\_\_\_\_
- ☐ TDR Special Permit (not part of Design Plan SP)? \_\_\_\_\_
- ☐ PMUD Phase I: Development Concept Plan? \_\_\_\_\_
- ☐ PMUD Phase II: Development Design Plan Special Permit? \_\_\_\_\_

Name of Applicant \_\_\_\_\_ Phone # \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Name of Owner \_\_\_\_\_

Signature of Owner \_\_\_\_\_ Phone # \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Name of Engineer \_\_\_\_\_ Phone # \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Name of Registered Land Surveyor \_\_\_\_\_

Phone # \_\_\_\_\_ Address \_\_\_\_\_  
\_\_\_\_\_

Name of Proposed Development \_\_\_\_\_

Location \_\_\_\_\_

Assessor's Parcel(s) # \_\_\_\_\_

Number of Lots \_\_\_\_\_ Zoning District(s) \_\_\_\_\_

Abutting Zoning District(s) \_\_\_\_\_

Proposed Street Name(s) \_\_\_\_\_

Abutting Streets Serving Location \_\_\_\_\_

Is Town Water Available? \_\_\_\_\_ Is Town Sewer Available? \_\_\_\_\_

**Development Concept Plan:** Please provide the approximate acreage of land within this proposal, including the percentage of the total PMUD overlay district, dedicated to the allowable land uses listed in the Required Performance Standards in Section 11.29(l) of the Freetown Zoning Bylaws, as follows:

LAND USE AND RELATED LOT REQUIREMENTS IN ACRES AND PERCENTAGES			
Land Use	Allowed Percentage of the Project Acreage	Approximate Acreage of land dedicated to land use	Approximate Percentage of total PMUD dedicated to land use
Retail (including grocery store)	0% to 35%		
Office/Research Medical	0% to 40%		
Residential	0% to 25%		
Nursing Home /Assisted Living/Continuing Care Retirement Community	0% to 40%		
Recreation	0% to 30%		
Hotel	0% to 10%		
Municipal	Allowed by right		

Total Gross Area of Locus: \_\_\_\_\_ Acres

Total Net<sup>1</sup> Area of Locus: \_\_\_\_\_ Acres

Total length of new roadways: \_\_\_\_\_ Linear feet

Area Shown as Public Green(s) \_\_\_\_\_ Acres

Public Green(s) will be:

Deeded to Town? \_\_\_\_\_

Placed under permanent conservation restrictions? \_\_\_\_\_

Description of Proposed Traffic Mitigation (this narrative is not meant to be submitted in lieu of a traffic study) *(may attach an additional page as needed)*:

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<sup>1</sup> Gross land area minus roadway rights-of-way, public green(s) and drainage structures.

**Development Design Plan:** Please provide the acreage of land within this proposal, including the percentage of the total PMUD overlay district, dedicated to the allowable land uses listed in the Required Performance Standards in Section 11.29(l) of the Freetown Zoning Bylaws, as follows:

LAND USE AND RELATED LOT REQUIREMENTS IN ACRES AND PERCENTAGES			
Land Use	Allowed Percentage of the Project Acreage	Approximate Acreage of land dedicated to land use	Approximate Percentage of total PMUD dedicated to land use
Retail (including grocery store)	0% to 35%		
Office/Research Medical	0% to 40%		
Residential	0% to 25%		
Nursing Home /Assisted Living/Continuing Care Retirement Community	0% to 40%		
Recreation	0% to 30%		
Hotel	0% to 10%		
Municipal	Allowed by right		

Number of Residential Development Rights transferred from another parcel:

Tot: \_\_\_\_\_ From (Map, Lot): \_\_\_\_\_

Total Gross Area of Locus: \_\_\_\_\_ Acres

Total Net<sup>1</sup> Area of Locus: \_\_\_\_\_ Acres

Total length of new roadways: \_\_\_\_\_ Linear feet

Area Shown as Public Green(s) \_\_\_\_\_ Acres

Public Green(s) will be:

Deeded to Town? \_\_\_\_\_

Placed under permanent conservation restrictions? \_\_\_\_\_

Description of Proposed Traffic Mitigation (this narrative is not meant to be submitted in lieu of a traffic study) *(may attach an additional page as needed)*:

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<sup>1</sup> Gross land area minus roadway rights-of-way, public green(s) and drainage structures.



October 8,  
2019

FREETOWN PLANNING BOARD PMUD RULES &  
REGULATIONS

**Determination and Certification of Sending Area Residential Development Rights**

Complete the following table:

Parcel I.D. (Assessor's)	Parcel Acreage	D.U.*/ acre	Total D.U.* Available
		5	
		5	

\*Dwelling Unit

**Transfer of Development Rights Special Permit**

Complete the following table:

Sending Parcel I.D. (Map, Lot)	Parcel Acreage	D.U.* / acre	Total D.U.* Available	Total D.U.* to be Severed
		5		
		5		

\*Dwelling Unit

RECEIVED  
FREETOWN TOWN CLERK

2019 OCT 24 AM 10: 52

*Jacqueline A. Brown*  
Town Clerk